

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

William R. Sarale, Julie Ann Sarale, Julie Ann
Sarale as Trustee of the James J. Cavalli
Testamentary Trust, and Julie Ann Sarale, as
Trustee of the Eva M. Cavalli 2007 Trust,

Complainants,

vs.

Pacific Gas and Electric Company (U39E),

Defendant.

Case 11-06-024
(Filed June 27, 2011)

Charles E. Keen, Attorney at Law, for Complainant.
Clement H. Barbara, Attorney at Law, for Pacific Gas
and Electric Company, Defendant.

MODIFIED PRESIDING OFFICER'S DECISION DISMISSING COMPLAINT

1. Summary

This decision denies the relief sought and dismisses the complaint filed by William R. Sarale, Julie Ann Sarale, Julie Ann Sarale as Trustee of the James J. Cavalli Testamentary Trust, and Julie Ann Sarale as Trustee of the Eva M. Cavalli 2007 Trust against Pacific Gas and Electric Company (U39E). The case is closed.

1.1. The Sarale Property and Pacific Gas and Electric Company (PG&E) Transmission Lines

William R. Sarale, Julie Ann Sarale, Julie Ann Sarale as Trustee of the James J. Cavalli Testamentary Trust, and Julie Ann Sarale as Trustee of the Eva M. Cavalli 2007 Trust (Sarales or Complainants) own property at 14600 Eight Mile Road, Linden, California (Property). The Property is agricultural in nature and is comprised of multiple acres of commercial walnut trees, which have been produced on the property for over one hundred years.

PG&E is a provider of electricity and natural gas service and is an investor-owned public utility under the jurisdiction of the California Public Utilities Commission (Commission or CPUC). PG&E owns and operates two sets of 115 kilovolt (kV) transmission lines and corresponding towers located on Complainants' property. The transmission lines and associated towers are located in an easement and right-of-way granted in 1915. Approximately four acres of Complainants' walnut trees are located under the aforementioned transmission lines. The two transmission lines located on the Property consist of two surrounding areas commonly referred to as the wire zone and the border. The wire zone, the area under the transmission lines and between the transmission towers is further divided into: 1) The "belly zone" which constitutes that area which is the lowest point and approximately fifty percent (50%) of the total span length (from one tower to the next tower); 2) The "low quarter zone" which constitutes that area which is next to the "belly zone" and which is between the belly zone and the "lower tower zone"; 3) The "low tower zone" constitutes that area which is between the lower tower and the "low quarter zone"; 4) The "high quarter zone" which constitutes that area that is next to the "belly zone" and which is between the belly zone and the "high tower

zone” and 5) The “high tower zone” which constitutes that area that is between the higher tower and the “high quarter zone.”¹

Vegetation growing into the transmission line wire zone can potentially pose significant risks to power lines. In some instances contact between vegetation and power lines has resulted in week-long power outages, large-scale blackouts, multiple deaths, and significant monetary costs and damages.

Federal and state standards have been developed to prevent damage related to vegetation growth into transmission lines. These standards include the clearing and/or trimming of certain vegetation in order to prevent vegetation outages on transmission lines. As per these standards, PG&E is required to clear transmission lines of vegetation within the identified wire zone. To comply with these standards, since 2004, PG&E has trimmed Complainants’ walnut trees within the wire zone down to seven feet or a radial clearance from the transmission lines of up to 20 feet.

2. Procedural History

2.1. Civil Litigation

In October 2007, Sarales filed a lawsuit against PG&E in San Joaquin County Superior Court alleging that PG&E had and was engaging in the excessive trimming of Complainants’ walnut trees. In a November 2007 amended complaint, the Sarales motioned for the court to enjoin PG&E’s trimming of their walnut trees beyond a ten-foot clearance, to grant declaratory relief regarding the existence of PG&E’s claimed power line easements, to enjoin PG&E’s alleged destruction of trees if property owners refused easement rights

¹ ALJ Vegetation Management Ruling, May 24, 2012.

to PG&E, and to award accompanying damages. In July 2008, the court dismissed the complaint for lack of jurisdiction, holding that prior to proceeding before the state court, Complainants were first required to seek a declaratory judgment from CPUC regarding whether “PG&E’s vegetation management practices are excessive or otherwise out of conformance with [Commission] regulations.”²

The Sarales appealed. At the request of the Third District Court of Appeals, the Commission filed an amicus brief. The Commission’s brief argued that, before any further adjudication by the court, the Commission must first determine whether PG&E’s tree trimming exceeded applicable CPUC regulations. The Court of Appeals agreed with the Commission and affirmed the Superior Court ruling that challenges to PG&E’s alleged unreasonable, unnecessary or excessive tree trimming practices lie within the exclusive jurisdiction of the Commission. Thus, before proceeding against PG&E in Superior Court the Sarales must first seek a finding by the Commission that PG&E’s vegetation management practices are excessive or otherwise out of conformance with Commission regulations.³

2.2. Chronology of Case 11-06-024

As per state court directive, Complainants filed the instant complaint on June 27, 2011, alleging that Defendant’s trimming of Complainants’ walnut trees exceeded regulatory limits established under General Order (GO) 95, Rules 35 and 37, Table 1, Case 13.⁴ The Sarales seek a finding by the Commission that

² Sarale v. PG& E. (2010) 189 Cal. App.4th 225, 233.

³ See *Id.*

⁴ Complaint at 7.

PG&E's trimming was "excessive." The Sarales also seek a temporary injunction during the pendency of this proceeding preventing PG&E from trimming their trees beyond a ten-foot radial clearance. Finally, the Sarales seek a finding by the Commission that PG&E has made false and fraudulent representations to growers and the public concerning the nature, legal mandates and requirements of its vegetation management program.⁵ Defendant answered the complaint on August 4, 2011.

A prehearing conference was conducted on September 6, 2011. The Commissioner's Scoping Memo and Ruling (Scoping Ruling) was issued on November 18, 2011. An Evidentiary Hearing was held on December 21, 2011. A Ruling concerning vegetation management at the Sarale Orchard pending issuance of this decision was issued on May 24, 2012. On June 29, 2013, a Supplemental Ruling to the May 24 Ruling was issued. An order extending the statutory deadline was issued on May 15, 2012, November 9, 2012, April 25, 2013, July 25, 2013, November 13, 2013, and January 16, 2014.

3. Background

In late 2004, PG&E began trimming the walnut trees located "in the belly zone" of the easement under the transmission line to a height of seven feet or a radial clearance from the transmission lines of up to 20 feet. The Sarales assert that this level of trimming is excessive and is far greater than the level of trimming during the previous 80 years. Complainants assert that this alleged excessive tree trimming reduced the mature walnut trees to seven foot stumps, resulted in trees that were devoid of productive limbs and resulted in crop losses in 2005, and each following year, of over three tons of walnuts per year with a

⁵ *Id.* at 6.

value of \$7,000-\$10,000 per year.⁶ The Sarales assert that PG&E's trimming exceeded the ten-foot radial clearance established by the Commission in GO 95, Rules 35 and 37, Table 1, Case 13.⁷

PG&E argues that its vegetation management program was designed to comply with the rules, regulations and decisions of the Commission and the overlapping requirements of other state and federal agencies.⁸ These other agencies include the California Independent System Operator Corporation (CAISO) which has operational control of the PG&E transmission lines on the Sarales' property. PG&E asserts that when the varying requirements of each of these regulations are synthesized, together with the experiences of transmission owners nationwide with respect to vegetation caused outages, it becomes evident that PG&E is required to trim the walnut trees to a clearance significantly less than the clearance level demanded by Complainants. Alternatively, PG&E asserts that it could simply remove the trees. PG&E asserts that one of the two aforementioned scenarios is necessary in order to ensure the safe and reliable transmission of power in California and to ensure that the trees do not breach the "no grow" minimum clearance zone around the transmission lines.⁹

PG&E contends that the land rights provided by its easement allow it to cut and remove trees whenever necessary or proper for the convenient use of its transmission lines.¹⁰ Finally PG&E asserts that it has not engaged in any

⁶ *Id.* at 7.

⁷ *Id.* at 5.

⁸ PG&E Answer to Complaint at 6.

⁹ *Id.* at 8.

¹⁰ *Id.* at 4.

fraudulent behavior. PG&E contends that walnut trees can grow up to 18 feet in a year and that it began trimming Complainants' walnut trees to a height of seven feet in the "belly zone" of its transmission lines following the 2003 East Coast blackout which was principally caused by a walnut tree coming into contact with a transmission line.¹¹ This revised level of trimming was to ensure that the walnut trees did not grow too close to the power lines. PG&E contends that its trimming was part of the vegetation management program mandated by the CAISO and was in conformance with the terms of its easement on the Sarales' property. PG&E further contends that GO 95 sets a minimum clearance standard for vegetation management, not a maximum. PG&E states that between 2005 and 2008 it attempted to work with the Sarales with various initiatives, programs and studies to mitigate the effects of its vegetation management program on their walnut crop and that these overtures were rejected by the Sarales.

Currently PG&E's tree trimming and vegetation management at the Sarale property is governed by the assigned Administrative Law Judge's (ALJ) rulings issued on May 24 and June 29, 2012. Pursuant to the rulings PG&E may trim the Sarales' trees no less than 12 feet in height in the "belly zones," 17-22 feet in the "quarter zones" and 27-32 feet in the "tower zones."

4. Discussion

4.1. Scope of the Proceeding

The threshold question in this proceeding is this: Is the level of tree trimming conducted by the Defendant under its vegetation management

¹¹ *Id.* at 6, 18.

program excessive as pertains to the Complainants' walnut trees located under Defendant's transmission lines?

Included in this question are the following sub-issues:

1. What is the minimum "no grow" zone around the Defendant's transmission lines and did the Complainant's walnut trees breach this "no grow" minimum clearance zone when trimmed to a radial clearance of ten feet?
2. Does CAISO require that the Defendant's vegetation management plan trim Complainant's trees to a radial clearance of 20 feet?
3. Is it necessary, proper and reasonable for Defendant to trim Complainant's trees to a radial clearance of 20 feet in order to operate its transmission lines in compliance GO 95?
4. Does its easement on the Complainant's property obligate the Defendant to reasonably accommodate agricultural use of the land?

4.2. What is the Minimum "No Grow" Zone Around Defendant's Transmission Lines and did Complainants' Walnut Trees Breach this "No Grow" Minimum Clearance Zone When Trimmed to a Radial Clearance of Ten Feet?

Regulations with respect to vegetation management near transmission lines are governed by CAISO, GO 95, Rules 35 and 37, and the North American Electric Reliability Council (NERC). CAISO guidelines call for a ten-foot minimum vegetation clearance requirement with respect to 115 kV transmission lines; GO 95, Appendix E also calls for a ten-foot minimum clearance. In accordance with the above guidelines, PG&E has also adopted its own internal regulatory procedures collectively referred to as PG&E's Transmission Vegetation Management Program (TVMP).

PG&E asserts that its TVMP, which allows for the trimming of Complainants' trees to a radial clearance of 20 feet, legally complies with state and federal vegetation management regulations. In contrast, Complainants aver that PG&E's conduct disregards the ten-foot clearance minimum implemented under GO 95. Complainants' assertions, however, fail to acknowledge past Commission decisions regarding minimum and maximum clearance constraints. As previously held by the Commission, minimum standards articulated under GO 95 should not be misinterpreted as a maximum standard.¹² Accordingly, although GO 95 sets a minimum clearance standard of ten feet, GO 95 fails to provide a maximum clearance standard.

This Commission's interpretation of GO 95 remains consistent with previous Commission decisions. Thus, the Commission admits that, technically, Complainants' original radial tree line of ten feet did not violate the "no grow" minimum clearance zone established under GO 95. At the same time, the Commission acknowledges that this admission does very little in regards to determining whether Defendant's conduct in trimming Complainants' walnut trees to a radial clearance of 20 feet was excessive.

Radial clearance requirements were designed to ensure public and worker safety in addition to minimizing environmental impacts. Although minimum clearance standards must be exercised, evaluations of maximum clearance lines must be assessed in accordance with a reasonability standard set forth by the

¹² See *Bereczky v. Southern California Edison Company* (1996) Decision (D.) 96-03-009 ("Rule 35, as it is presently drafted, does not fix a maximum limit on the amount of trimming which a utility is permitted to do on easements under its power lines. It must . . . be construed to fix a minimum, rather than a maximum, standard to effectuate the general safety and reliability purposes of GO 95."); see also *Wilbur v. PG&E*. (2012) D.12-10-007 (citing D.96-03-009).

Commission. Thus, although Complainants' walnut trees failed to breach the "no grow" minimum clearance zone when trimmed to a radial clearance of ten feet, issues involving Defendant's conduct in trimming Complainants' walnut trees to a radial clearance of 20 feet may not be fully resolved unless the Commission additionally evaluates whether the 20-foot radial clearance line adopted by PG&E is necessary, proper, and reasonable.

4.3. Does CAISO Require that Defendant's Vegetation Management Plan Trim Complainants' Trees to a Radial Clearance of 20 Feet?

Pursuant to CAISO regulation, as discussed above, a minimum radial vegetation clearance of ten feet must be maintained by Defendant with respect to 115 kV transmission lines. CAISO provides no specific language regarding requirements extending Defendant's vegetation management plan to a radial clearance of 20 feet. However, CAISO standards require Participating Transmission Owners (including PG&E) to submit their own Transmission Maintenance Practices. These practices must include vegetation management procedures. Further, these adopted procedures must be approved by CAISO.

In accordance with CAISO requirements, PG&E developed and submitted its Transmission Maintenance Practices to CAISO. These practices, including PG&E's TVMP, have been approved by CAISO. Thus, the 20-foot vegetation management radial clearance adopted within PG&E's TVMP has been approved by CAISO. More importantly, CAISO annually audits PG&E to ensure that this 20-foot minimum radial clearance, which is part of its TVMP, is adhered to. Consequently, although CAISO does not specifically require Defendant to trim Complainants' trees to a radial clearance of 20 feet, CAISO does require Defendant to adhere to its TVMP, which calls for a radial clearance of 20 feet.

Thus, as per Defendant's approved TVMP, CAISO indirectly requires Defendant's vegetation management plan to trim Complainants' trees to a radial clearance of 20 feet.

4.4. Is it Necessary, Proper, and Reasonable for Defendant to Trim Complainants' Trees to a Radial Clearance of 20 Feet in Order to Operate Its Transmission Lines in Compliance of GO 95?

As evidenced by the century-long history of Complainants' orchard, no data suggests that Complainants' walnut trees have ever come into contact with Defendant's overhead transmission lines. This fact is particularly relevant in relation to the past eighty-plus years when, as to the knowledge of this Commission, the walnut trees were not being trimmed to the extent in which they are currently being trimmed by Defendant. Further, the current trimming standard adopted by Defendant tends to produce somewhat adverse effects. According to agricultural professionals, larger, broader trims to walnut trees will result in the unintended effect of a more rapid growth to the trees in the form of shoots.¹³ Consequently, when a mature walnut tree is trimmed to seven feet in height, the tree will develop buds and begin sprouting multiple individual shoots anywhere from up to two to eight feet long.¹⁴ This phenomenon was witnessed on Complainants' property by members of this Commission, including the assigned ALJ. Coincidentally, such extreme and rapid shoot growth was absent prior to 2004 when Defendant had abstained from trimming Complainants'

¹³ RT 32:17-19.

¹⁴ *Id.* at 82:9-15.

walnut trees to seven feet.¹⁵ However, even with the aforementioned presented facts, the Commission acknowledges that Defendant's conduct in trimming Complainants' trees to a radial clearance of 20 feet in order to operate its transmission lines is not inconsistent with GO 95 and can be deemed necessary, proper, and reasonable and in compliance with GO 95 and other controlling regulatory standards.

The Commission acknowledges that CAISO, GO 95, and NERC remain the standard regarding minimum vegetation clearance zones. Further, the Commission also acknowledges that, for purposes of clarity and continued comprehensibility moving forward, consistency regarding the Commission's decisions on vegetation clearance zones must be maintained.

Given the breadth of PG&E's service area, inconsistent decisions from the Commission regarding vegetation clearance zones and trimming requirements would result in an unprecedented amount of wasted resources for PG&E. Individually managing specific vegetation clearance zone standards for each specific orchard would be both costly and inefficient for utility companies. Thus, to avoid such waste that may result from a piecemeal standard; the Commission must adopt a general standard. This standard has previously been set forth by the Commission.

In D.12-10-007, the Commission determined that it was reasonable for PG&E to clear vegetation around its transmission lines to a clearance of 20 feet.¹⁶ Although the Sarales assert that such a standard remains subjectively excessive for their orchard, the Commission disagrees in that we will apply an objectively

¹⁵ *Id.* at 33:1-8.

¹⁶ *See Wilbur v. PG&E.* (2012) D.12-10-007.

consistent standard. An aggressive consistent approach regarding vegetation management trimming and clearance zones must be adopted in order to ensure public and worker safety and to preemptively protect against large-scale blackouts and billions of dollars in damages resulting from vegetation coming into contact with transmission lines. Thus, the Commission considers Defendant's conduct in trimming Complainants' walnut trees to a radial clearance of 20 feet to be necessary, proper, and reasonable in the overall framework of consistent regulation and management of vegetation growth near power lines.

Complainants assert that *their* specific walnut trees have never come into contact with Defendant's transmission lines. We agree, however, this assertion assumes the adoption of a specific approach unique to each orchard. As discussed above, the Commission is unwilling to deviate from the consistent, standard approach adopted in D.12-10-007, nor does the Commission see the utility in deviating from the standard approach. Thus, in an effort to remain consistent with previous Commission decisions, the Commission holds that Defendant's conduct in trimming Complainants' walnut trees to a radial clearance of 20 feet remains necessary, proper, and reasonable.

4.5. Does Defendant's Easement on Complainants' Property Obligate Defendant to Reasonably Accommodate Agricultural Use of the Land?

Although Complainants specifically request that the Commission omit consideration of issues regarding property rights or easements, Defendant asserts that it was granted an applicable easement and right-of-way for the Sarale property in 1915. The Commission's analysis of this sub-issue, here, declines to engage in the dispute of whether a proper easement exists. Instead, having

already determined that Defendant's conduct is necessary, proper, and reasonable, the Commission holds that, should a proper easement exist, Defendant has acted prudently and reasonably in accommodating the agricultural use of the land. Thus, any obligations regarding Defendant's reasonable accommodation of the agricultural use of the land have already been satisfied.

5. Conclusion

Given the conclusions regarding the above sub-issues, the Commission has determined that the Defendant's conduct in trimming Complainants' walnut trees to a radial clearance zone of 20 feet and trimming Defendant's walnut trees within the "belly zone" under the transmission line to a height of seven feet is not excessive.

In no way do the Commission's conclusions suggest that Defendant should desist attempting to work with Complainants in designing various initiatives, programs, and studies that may mitigate the effects of Defendant's vegetation management program on Complainants' walnut crop. Instead, this decision merely concludes that Defendant's conduct fails to warrant a finding of excess. Although the Commission finds no reason to mandate an alteration of Defendant's behavior, it is the Commission's hope that the Complainant and Defendant may still reach an agreement beyond this decision that may be deemed satisfactory to both parties.

6. Categorization and Need for Hearings

The Instruction to Answer filed on July 6, 2011, categorized this proceeding as adjudicatory as defined in Rule 1.3(a) of the Commission's Rules of Practice and Procedure. The scoping memo dated November 18, 2011, affirmed a need for evidentiary hearings.

7. Assignment of the Proceeding

Michel Peter Florio is the assigned Commissioner and W. Anthony Colbert is the assigned ALJ and presiding officer in this proceeding.

8. Appeal of the Presiding Officer's Decision

On October 18, 2013, Complainants filed an appeal of the Presiding Officer's Decision (POD) alleging numerous errors in the decision. On November 4, 2013, PG&E filed its response to Complainants' appeal of the POD. Complainants allege that the POD is contrary to law and evidence and if adopted, would violate Public Utilities Code Section 1751, the Constitutions and statutes of the United States of America and the State of California, and the Regulations, Rules and Orders of the Commission. Complainants also contend that the POD fails to address Sub-issues 1-4 of the Scoping Memo, the claims for injunctive relief based on fraud, and relief sought based on State or Federal Constitutional protections. PG&E asserts that the Complainants have failed to cite accurately to the Record, improperly refer to matters outside of the Record, and have generally failed to identify factual and legal errors in the POD.

Complainants contend that the POD ignores the fact that GO 95 established a ten-foot time-of-trimming standard for 115 kV lines and its method for expanding trimming limits. Complainants argue that efficiency and safety concerns are not sufficient justifications for extending the standard by an additional 10 feet without first taking into account orchard-specific characteristics. Complainants contend that, as a result of PG&E's actions, they have endured an "unprecedented waste" through crop loss that amounts to an uncompensated taking because of the economic losses they have suffered.

PG&E argues that GO 95, including Appendix E, merely provide guidelines for utilities rather than a standard. PG&E reiterates that there is no

Commission, state, or federal rule or decision that mandates a maximum of ten-foot time of trim clearance. Moreover, PG&E contends that no taking occurred because the Property is burdened by PG&E's easement, which explicitly grants PG&E the right to operate and maintain transmission lines on the Property, as well as the right to cut and clear away all trees in the vicinity of the power lines. Furthermore, PG&E asserts that the POD is consistent with CAISO oversight requirements, recognized industry standards, best practice, experience, GO 95 and Rule 31.1. PG&E further contends that the POD properly relied on Commission precedent and actions as well as recommendations of other regulatory agencies such as the Federal Energy Regulatory Commission.

Complainants also argue that applying D.12-10-007 as an aggressively consistent standard here is inappropriate because administrative law does not rely on stare decisis. They contend that the findings and conclusions of D.12-10-007 were fact-specific, and that D.12-10-007 contained the same legal errors present in the instant POD.

Relying on the *Sarale* Court of Appeal decision, PG&E contends that there must be consistency in the application of vegetation management standards in order to avoid an unworkable patchwork of regulation. In support of this, PG&E draws on language from D.12-10-007 that maintains that PG&E must use uniform practices to the extent practical in order to have a workable, cost-effective vegetation management program. PG&E further contends that creating an orchard-specific program would create new law and be inconsistent with prior Commission decisions.

Complainants also allege that PG&E's own Regulations and CAISO Maintenance Practice do not dictate trimming limits as PG&E has represented to growers, including Complainants. In addition, Complainants argue that PG&E

falsely represented that it possessed virtually unlimited property rights under its easement by partially quoting Civil Code Section 1069 and therefore, Section 1-4 of the Scoping Memo should have been addressed.

PG&E asserts that Complainants' fraud claim fall outside of the scope of this proceeding and even if that were not the case, there was no fraud associated with PG&E's program because the program was necessary, proper, and reasonable. PG&E contends that once it submits its program for approval to CAISO, it is required to follow it. PG&E further asserts that its easement only requires it to avoid interfering with Complainants' use of the Property so far as it reasonably can. PG&E claims that agricultural use of the Property must to give way to PG&E's right and need to ensure the safety and reliability of the transmission lines.

Complainants further contend that PG&E unreasonably ignored available alternatives, such as raising lines and mechanical trimming that would render its 20-foot trimming program unnecessary. In response, PG&E alleges that raising the lines is not in the Record and would require it to construct special facilities at additional cost to its customers. Furthermore, PG&E alleges that mechanical trimming poses risks to the transmission lines and system reliability. Specifically, PG&E identifies two walnut orchards serviced by the mechanical trimming method that experienced encroachments into the ten-foot safety buffer.

Complainants have also allege errors in the POD as to the location of their agricultural property and omitted emphasis of the word "require" in sub-issue 2, as appeared in the Scoping Memo.

After reviewing the appeal and response to the appeal, the Presiding Officer has determined that Complainants have failed to demonstrate any material procedural or legal error in the POD. As a result, we decline to make

any substantive changes to the POD originally mailed on September 23, 2013. There is no compelling evidence that PG&E excessively trimmed Complainants' walnut trees. Contrary to Complainants' assertions, GO 95 did not provide a hardline standard; rather, it provided a minimum in which utilities were to follow. Furthermore, evidence of safety, efficiency, and consistency concerns justified PG&E's expansion of its ten-foot time-of-trim practice. The evidence presented supports PG&E's contention that it acted prudently and reasonably in accommodating the agricultural use of the land. Given the totality of the circumstances and conditions, PG&E's trimming program remains necessary, proper, and reasonable.

In their appeal, Complainants indicated a factual error as to the location of their agricultural property. To the extent that has occurred, relevant corrections have been made to the POD. There are no other changes to the POD.

Findings of Fact

1. Complainants own agricultural property at 14600 Eight Mile Road, Linden, California.
2. Complainant's property is agricultural in nature and is comprised of multiple acres of commercial walnut trees, which have been produced on the property for over one hundred years.
3. Defendant is a provider of electricity and natural gas service and is an investor-owned public utility under the jurisdiction of the CPUC.
4. Defendant owns and operates two sets of 115 kV transmission lines and corresponding towers located on Complainants' property. Approximately four acres of Complainants' walnut trees are located under the Defendant's transmission lines.

5. The transmission lines and associated towers are located in an easement and right-of-away granted in 1915.

6. The areas under the transmission lines and between the transmission towers are called the “belly zone,” “quarter zone” and “tower zone.”

7. In late 2004, PG&E began trimming Complainants’ walnut trees located “in the belly zone” of the easement under the transmission line to a height of seven feet or a radial clearance from the transmission lines of up to 20 feet.

8. PG&E’s tree trimming in the “belly zone” reduced the mature walnut trees to seven-foot stumps, resulted in trees that were devoid of productive limbs and resulted in crop losses in 2005, and each following year.

9. PG&E may currently trim the Sarales’ trees no less than 12 feet in height in the “belly zones,” 17-22 feet in the “quarter zones” and 27-32 feet in the “tower zones.”

10. There is no history of Complainants trees growing into transmission lines.

11. Vegetation growing into transmission line wire zones poses significant risks and in some instances, has resulted in power outages, blackouts, multiple deaths, and billions of dollars in damages.

12. In D.12-10-007, the Commission determined that it was reasonable for PG&E to clear vegetation around its transmission lines to a clearance of 20 feet.

13. PG&E has an obligation to keep its transmission lines clear of vegetation at all times in order to ensure public and worker safety in addition to minimizing environmental impacts.

Conclusions of Law

1. CAISO guidelines and GO 95, Appendix E call for a ten-foot minimum vegetation clearance requirement with respect to 115 kV transmission lines. These are minimum clearance standards and are not indicative of maximum

restraints placed on utility companies. Instead, evaluations of maximum clearance lines must be assessed in accordance with a reasonability standard set forth by the Commission.

2. PG&E's TVMP has adopted a 20-foot radial vegetation clearance zone. CAISO annually audits PG&E to ensure that this 20-foot minimum radial clearance, which is part of its TVMP, is adhered to.

3. By way of Defendant's approved TVMP, CAISO indirectly requires Defendant's vegetation management plan to trim Complainants' trees to a radial clearance of 20 feet.

4. Individually managing specific vegetation clearance zone standards for specific orchards is both costly and inefficient for utility companies. The Commission must adopt a general standard regarding vegetation management.

5. Consistent with D.12-10-007, Defendant's conduct in trimming Complainants' walnut trees to a radial clearance of 20 feet remains necessary, proper, and reasonable.

6. Defendant's conduct in trimming Complainants' walnut trees to a radial clearance zone of 20 feet and trimming Defendant's walnut trees within the "belly zone" under the transmission line to a height of seven feet is not excessive.

O R D E R

IT IS ORDERED that:

1. The complaint of William R. Sarale, Julie Ann Sarale, Julie Ann Sarale as Trustee of the James J. Cavalli Testamentary Trust, and Julie Ann Sarale as Trustee of the Eva M. Cavalli 2007 Trust against Pacific Gas and Electric Company (U39E) is denied.

2. Case 11-06-024 is closed.

This order is effective today.

Dated _____, at Los Angeles, California.